REMARKS/ARGUMENTS

The Office Action mailed June 27, 2007 has been carefully reviewed and this paper is responsive thereto. Claims 1-8 and 10-12, 14-28, 30 and 32-43 are pending. Claims 1, 3-8, 10-12, 14-28, 30 and 32-43 were rejected under 35 U.S.C § 102(e) as being anticipated by U.S. Patent No. 6,678,548 to Echauz *et al.* ("Echauz"). Claim 2 was objected to as being dependent on rejected claims but was deemed allowable if rewritten in independent form.

Allowable Subject Matter

Claim 2 was indicated as being allowable if rewritten in independent form. In response, claim 2 has been written in independent form to include the relevant features of claim 1 and is believed to be in condition for allowance.

Amendment to the Claims

Claims 1, 2 and 16 have been amended. Claim 1 has been amended to clarify the scope of the claim, however no change in the scope was intended or believed made. Claim 2 has been rewritten in independent form, thus no new matter was added. Claims 16 have been amended to delete a feature, thus no new matter was added.

Rejection under 35 U.S.C. § 102(e) – Echauz

Claims 1, 3-8, 10-12, 14-28, 30 and 32-43 were rejected under 35 U.S.C. § 102(e) as being anticipated by Echauz.

Looking first at claims 33-43, the Office Action suggests that the prior Office Actions provide sufficient disclosure to support the rejection:

> See previous office action for details of the rejection. In regards to claims 33-43 the previous office action provides sufficient disclosure to reject the claims, as they are rejected on substantiality the same basis.

However, as was previously noted, Echauz fails to disclose the feature "computing a score of relative severity of the detection cluster using the identified at least one feature, wherein the computed score is selected from a range of at least three values including an upper value and a

lower value" as recited in claim 33, for example. Applicants previously noted this deficiency in Echauz and the current rejection has failed to address this deficiency, accordingly it is believed that no support for such a feature could be found in Echauz and Applicants' remarks were considered persuasive. Indeed, during the prior interview the Examiner suggested that Echauz inherently included a scoring based on the binary decision related to whether there was a event, however, no support has even been suggested to exist for the score computation with the range of at least three values as recited in claim 33. If this is no longer believed to be the case, the express location of where this feature of claim 33 is disclosed in Echauz is requested because without such a showing it cannot be said that the Office Action has properly supported the rejection of claim 33 based on the disclosure of Echauz. Importantly, to date no Office Action has provided support for why Echauz can be said to disclose this feature of claim 33 and this feature is not recited in claims that were previously rejected based on the disclosure of Echauz; therefore the Office Action fails to make a proper rejection under 35 U.S.C. § 102(e) without providing greater specificity. *See* MPEP 707.07(d).

Independent claim 38 recites a similar feature the above discussed feature of claim 33; therefore, the rejection of independent claim 38 is also deficient for the reasons discussed above with respect to claim 33.

Claims 34-37 and 39-43 depend from claims 33 and 38, respectively, and therefore have not been shown to be anticipated by Echauz for at least the reasons discussed above with respect to claim 33 and for the additional features recited therein. In particular, features of claims 35, 37, 41 and 43 are not believed to be present in the other pending claims depending from claim 1 and 15, thus rejecting these claims based on the rationale used to reject other pending claims, such as claims 1 and 15, is insufficient.

Turning to independent claim 1, the feature of "computing a score of relative severity of the at least one neurological event using the identified feature wherein the computing allows a user to exclude a certain event from being scored" is recited. The Office Action suggests that this feature is disclosed by Echauz, pointing to the fact that Echauz discloses the filtering provided by the signal acquisition portion 20. This section of Echauz, however, merely discloses that a signal is being filtered prior to it being digitized. In contrast, claim 1 recites "computing a

score of relative severity of the at least one neurological event" and while the computing of claim 1 inherently required the use of a digitized signal, it now has been expressly recited. Therefore, while it is believed that the recite event cannot fairly be construed as it appears to be construed in the Office Action, the amendment to claim 1 clarifies that such a construction is incorrect. Furthermore, this feature of claim 1 discloses that an event has already been determined to be in existence, something that has plainly not the case with the "raw signals" that signal acquisition portion 20 works with because Echauz explains the filtering the Office Action has pointed to takes place before the feature extraction 40 element. Echauz, Col. 4, ln. 7-25; Fig 1. Therefore, for at least these reasons, this section of Echauz fails to disclose the recited features of claim 1.

In addition, claim 1 recites "wherein the computing allows a user to exclude a certain event from being scored." To the extent Echauz can be said to disclose allowing a user to filter anything, it cannot be fairly equated to an event but instead at most is allowing a user to filter the raw signal so that certain types of signals, such as 60 Hz frequencies, are not received and used to confuse the determination of whether an event exists. Thus, the cited disclosure in Echauz fails to disclose "excluding an event from being scored" because it happens before the determination of an event can occur in the system of Echauz. Accordingly, it cannot be said that Echauz discloses the recited features of claim 1. As Echauz fails to disclose all the features of claim 1, Echauz cannot be said to anticipate claim 1 and claim 1 is therefore patentable in view of Echauz.

Claims 3-8, 10-12 and 14 depend from claim 1 and are patentable for at least the reasons that claim 1 is patentable and for the additional features recited therein.

Independent claim 15 recites the feature of "a means for processing for detecting a neurological event based on an evaluation of the neurological signal... and for allowing a user to exclude a certain neurological event from being scored." Therefore, for reasons similar to the reasons discussed above with respect to claim 1, claim 15 is also allowable.

Claims 16-22, 24-29, 30 and 32 depend from claim 15 and are allowable for at least the reasons claim 15 is allowable and for the additional features recited therein. Applicants note that claim 16 recites features similar to the features of claim 2, which was deemed allowable, thus claim 16 is also believed to be allowable for similar reasons.

Accordingly, withdrawal of this ground of rejection is respectfully requested.

CONCLUSION

All rejections have been addressed. Applicants believe all pending claims are in condition for allowance and earnestly solicit prompt notification of the same.

Respectfully submitted,

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